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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/738,419

12/17/2003

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4630-010

8339

22440 7590 03/28/2011  
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EXAMINER

PARRY, CHRISTOPHER L

ART UNIT

PAPER NUMBER

2421

MAIL DATE

DELIVERY MODE

03/28/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/738,419	<b>Applicant(s)</b> BOCCON-GIBOD ET AL.	
	<b>Examiner</b> CHRIS PARRY	<b>Art Unit</b> 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-9, 11-16, 18, 32, 35, 36, 39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-9, 11-16, 18, 32, 35, 36, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                     |                                                                   |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                         | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 3 February 2011 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 2-9, 11-16, 18, 32, 35, 36, 39, and 40 have been considered but are moot in view of the new ground(s) of rejection.

Although a new ground of rejection has been used to address additional limitations that have been added to Claims 11 and 32, a response is considered necessary for several of applicant's arguments since reference Marsh, will continue to be used to meet several claimed limitations.

In response to applicant's argument (Page 9, 3<sup>rd</sup> ¶) stating none of the cited references disclose or suggest the subject invention, the examiner respectfully disagrees.

Marsh discloses the limitation of stopping the buffering of the program if a user does not start watching said channel with said first time period by disclosing intelligent content agent 108 may automatically delete a recording program for content buffer 118, even though there is no shortage of storage space (Col. 7, lines 42-45). For example, intelligent content agent 108 may be configured to monitor a live program, such as the Late Show with David Letterman, and decide to delete the program if the user is not currently viewing the program and if the program fails to meet criteria of a user's profile (Col. 5, lines 17-27 and Col. 7, lines 42-55).

### ***Claim Objections***

3. Claim 11 is objected to because of the following informalities: On line 12 of the claim, the limitation "said presentation device" does not have an antecedent basis in the claim. Appropriate correction is required.
4. Claim 11 is objected to because of the following informalities: On lines 13-14 of the claim, "said channel" should be --said content--. Appropriate correction is required.
5. Claim 39 is objected to because of the following informalities: On line 1 of the claim, "method of claim 37" should be --method of claim 32-- since claim 37 has been cancelled. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 3, 11-14, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz et al. "Horvitz" (USPN 7,451,151 B2) in view of Marsh et al. "Marsh" (USPN 7,093,273 B2).

As for Claim 2, Horvitz and Marsh disclose, in particular Horvitz teaches determining by said processor for said one program to be buffered is a predictive process based on a frequency measure of previously watched programs (i.e., the determination is made based on the viewer's viewing habits) (Col. 6, lines 10-43).

As for Claim 3, Horvitz and Marsh disclose, in particular Horvitz teaches wherein the step of determining said one program of interest is a predictive process based on specific programs watched (i.e., the determination is made based on the viewer's viewing habits) (Col. 6, lines 10-43).

Regarding Claim 11, Horvitz discloses in a system (90 – fig. 5) for distributing content to users over channels, said system including a microprocessor (92/94 – fig. 5)

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and a buffer (97 – fig. 5) for selectively storing content (Col. 12, lines 35-45), a method for buffering, the method comprising the steps of:

determining by the microprocessor [92/94], that at least content of interest to at least one of said users is within a predetermined time slot (i.e., inference system 92 determines items of interest to the user by referencing a log that stores a viewing history of the viewer in order to determine the viewing habits of the user, and based on the user's viewing habits, inference system 92 determines a recommendation list of items that are ranked based on viewing habits of the user) (Col. 6, lines 10-46 & Col. 12, lines 41-45);

buffering in a buffer [97] a portion of said content for a first time period, said first time period being shorter than the duration of said content (i.e., local cache 97 comprises live selections portion 100 for storing information relating to programs that are currently in process that a user may want to catch from the beginning based on previous viewing habits with the current time interval) (Col. 11, lines 47-51 & Col. 12, lines 45-58); and

detecting, by said processor [92/94], if a user starts watching said content on said presentation device (95 – fig. 5) within said first time period (i.e., filtering system 94 receives a request to view a program and the filtering system 94 transmits a request to the program delivery system 96 to transmit the program from the live selections portion 100 to viewer 95) (Col. 12, lines 48-52).

Horvitz fails to disclose stopping the buffering of the program if a user does not start watching said channel within said first time period; and flushing said buffer after the buffering is stopped.

In an analogous art, Marsh discloses buffering in a buffer (118 – fig. 3) a portion of said content for a first time period, said first time period being shorter than the duration of said content (i.e., content that may of be interest to the user is buffered long enough for the intelligent content agent 108 to determine if the content meets the criteria of the user's profile) (Col. 7, lines 48-51); stopping the buffering of the program if a user does not start watching said channel within said first time period (i.e., if a user has not started watching the Late Show and agent 108 determines if the selected candidate program does not match the viewer profile by monitoring the closed caption of the program then intelligent content agent 108 may decide to stop buffering of the Late Show with David Letterman) (Col. 7, lines 29-55) and flushing said buffer after the buffering is stopped (i.e., intelligent content agent 108 deletes the buffered program entirely) (Col. 7, lines 42-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Horvitz to include stopping the buffering of the program if a user does not start watching said channel within said first time period and flushing said buffer after the buffering is stopped as taught by Marsh for the benefit of having more intelligent and more robust methods and arrangements for recording television programs and other broadcast multimedia content programs (Marsh – Col. 2, lines 4-7).

As for Claim 12, Horvitz and Marsh disclose, in particular Horvitz teaches wherein the step of determining said one channel is based on a list of channels most recently viewed by the user (i.e., the determination is made based on the viewer's viewing habits) (Col. 6, lines 10-43).

As for Claim 13, Horvitz and Marsh disclose, in particular Horvitz teaches wherein the step of determining said channel is a predictive process based on a frequency measure of channels watched within the same timeslot of a previous day (i.e., determination is made based on the viewer's viewing habits) (Col. 6, lines 10-43).

As for Claim 14, Horvitz and Marsh disclose, in particular Horvitz teaches wherein the step of determining said channel is a predictive process based on a frequency measure of channels watched within the same timeslot of a previous week (i.e., determination is made based on the viewer's viewing habits) (Col. 6, lines 10-43).

Regarding Claim 32, Horvitz discloses in a player (90 – fig. 5) in which programs are provided to various users (Col. 12, lines 35-45), a method of time shifting a program comprising:

using a processor (92/94 – fig. 5) to determine if at least one program being distributed in the system is of interest to a user, said program having a starting point (i.e., inference system 92 determines items of interest to the user by referencing a log that stores a viewing history of the viewer in order to determine the viewing habits of the



user, and based on the user's viewing habits, inference system 92 determines a recommendation list of items that are ranked based on viewing habits of the user) (Col. 6, lines 10-46 & Col. 12, lines 41-45);

starting to buffer said one program from its starting point if said processor determines that said program is of interest to at least one of the users (i.e., local cache 97 comprises live selections portion 100 for buffering programs that are currently in process that a user may want to catch from the beginning based on previous viewing habits with the current time interval as determined by inference system 92) (Col. 11, lines 47-51 & Col. 12, lines 45-58);

receiving a command from one of said processor [92/94] to determine if the user starts watching said one program after said buffering has started (i.e., filtering system 94 receives a request to view a program and the filtering system 94 transmits a request to the program delivery system 96 to transmit the program from the live selections portion 100 to viewer 95) (Col. 12, lines 48-52); and

presenting said program from its starting point, automatically by said processor, in response to said command (i.e., program delivery system 96 begins transmitting the program from live selections portion 100 in response to the request to viewer 95, where the show is presented to the viewer from the beginning so the viewer can view the entire program from the beginning to the end) (Col. 12, lines 50-56).

Horvitz fails to disclose stopping said buffering if said command is not received within a predetermined time period; and automatically erasing the portion of said program that has been buffered.

In an analogous art, Marsh discloses starting to buffer said one program from its starting point if said processor determines that said program is of interest to at least one of the users (i.e., content that may of be interest to the user is buffered long enough for the intelligent content agent 108 to determine if the content meets the criteria of the user's profile) (Col. 7, lines 48-51); stopping said buffering if said command is not received within a predetermined time period (i.e., if a user has not started watching the Late Show and agent 108 determines if the selected candidate program does not match the viewer profile by monitoring the closed caption of the program then intelligent content agent 108 may decide to stop buffering of the Late Show with David Letterman) (Col. 7, lines 29-55) and automatically erasing the portion of said program that has been buffered (i.e., intelligent content agent 108 deletes the buffered program entirely) (Col. 7, lines 42-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Horvitz to include stopping said buffering if said command is not received within a predetermined time period; and automatically erasing the portion of said program that has been buffered as taught by Marsh for the benefit of having more intelligent and more robust methods and arrangements for recording television programs and other broadcast multimedia content programs (Marsh – Col. 2, lines 4-7).

8. Claims 4, 15, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz in view of Marsh as applied to claims 11 and 32 above, and further in view of Williams et al. "Williams" (USPN 5,977,964).

As for Claim 4, Horvitz and Marsh fails to disclose wherein the step of determining said one program of interest is a predictive process based on the genre of programs watched.

In an analogous art, Williams teaches wherein the step of determining said one program of interest is a predictive process based on the genre of programs watched (i.e., favorite genres) (Col. 5, line 52 to Col. 6, line 24 and Col. 6, line 63 to Col. 7, line 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Horvitz and Marsh to include wherein the step of determining said one program of interest is a predictive process based on the genre of programs watched as taught by Williams for the benefit of configuring a system based on a user's monitored system interaction.

As for Claim 15, Horvitz and Marsh fails to disclose wherein the step of determining said channel is a predictive process based on the genre of channels being watched and previously watched.

In an analogous art, Williams wherein the step of determining said channel is a predictive process based on the genre of channels being watched and previously watched (i.e., favorite genres) (Col. 5, line 52 to Col. 6, line 24 and Col. 6, line 63 to Col. 7, line 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Horvitz and Marsh to include wherein the step of determining said channel is a predictive process based on the genre of channels being

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watched and previously watched as taught by Williams for the benefit of configuring a system based on a user's monitored system interaction.

As for Claim 35, Horvitz and Marsh fail to disclose wherein said timeslot is selected from a grid defining programs over an extended time period on different channels.

In an analogous art, Williams teaches wherein said timeslot is selected from a grid defining programs over an extended time period on different channels (figure 9; Col. 8, line 41 to Col. 9, line 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Poslinski, Kaminski, and Marsh to include wherein said timeslot is selected from a grid defining programs over an extended time period on different channels as taught by Williams for the benefit of automatically configuring a system based on a user's monitored system interaction and preferred system access times (Williams: Col. 2, lines 6-8).

As for Claim 36, Horvitz, Marsh, and Williams disclose, in particular Williams teaches wherein said grid is a weekly grid and said timeslot defines a program distributed at a particular day, time, and channel (fig. 9; Col. 8, line 41 to Col. 9, line 10).

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz in view of Marsh as applied to claim 32 above, and further in view of Finseth et al.

"Finseth" (USPN 6,813,775 B1).

As for Claim 5, Horvitz and Marsh are silent on disclosing wherein the step of determining said one program of interest is a predictive process based on the recommendations of other users.

In an analogous art, Finseth discloses wherein the step of determining said one program of interest is a predictive process based on the recommendations of other users of the system (i.e., the Father 112A can recommend a program to the Mother 112B, the Sister 112C and the Brother 112D or "users of the system) (Col. 12, lines 8-17; Col. 13, lines 35-48; & Col. 14, lines 50-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Horvitz and Marsh to include wherein the step of determining said one program of interest is a predictive process based on the recommendations of other users of the system as taught by Finseth for the benefit of allowing a user of the system to tell another user of the system about a specific television program.

10. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz in view of Marsh and further in view of Finseth as applied to claim 5 above, and further in view of Ismail et al. "Ismail" (USPN 7,146,627).

As for Claims 6 and 8, Horvitz, Marsh, and Finseth are silent on disclosing wherein the recommendations of other users are extracted from Web Log entries and online reviews.

In an analogous art, Ismail discloses wherein the recommendations of other users are extracted by the processor from Web Log entries and online reviews (Col. 20,

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lines 46-59). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Horvitz, Marsh, and Finseth to include wherein the recommendations of other users are extracted from Web Log entries as taught by Ismail for the benefit of gathering more user preferences from other sources.

11. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz in view of Marsh and further in view of Finseth as applied to claim 5 above, and further in view of Abramson (US 2005/0034151 A1).

As for Claims 7 and 9, Horvitz, Marsh, and Finseth fail to disclose wherein the recommendations of other users are extracted by the processor from one or more messages from an instant messaging service or email messages.

In an analogous art, Abramson disclose wherein the recommendations of other users are extracted from one or more messages from an instant messaging service or email messages (¶ 0056). By disclosing uses can send recommendations by email or instant message, Abramson teaches recommendations from other users are extracted from an instant message or email message. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Horvitz, Marsh, and Finseth to include wherein the recommendations of other users are extracted from one or more messages from an instant messaging service or email as taught by Abramson for the benefit of collecting more information regarding upcoming programs.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz in view of Marsh as applied to claim 11 above, and further in view of Sezan et al. "Sezan" (US 2004/0268389 A1).

As for Claim 16, Horvitz and Marsh fail to disclose wherein the step of determining said channel is a predictive process based on recommendations.

In an analogous art, Sezan teaches wherein the step of determining said channel is a predictive process based on recommendations (i.e. reviews by Siskel and Ebert) (§ 246). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Horvitz and Marsh to include wherein the step of determining said channel is a predictive process based on recommendations as taught by Sezan for the benefit of filtering program descriptions based on reviews and recommendations of a program of interest.

13. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz in view of Marsh as applied to claim 11 above, and further in view of Poslinski et al. "Poslinski" (US 2005/0044570 A1).

As for Claim 18, Horvitz and Marsh fail to disclose wherein the buffering of the portion of a program on said channel continues until a channel of higher interest is found, after which the buffering commences of a portion of a program on said channel of higher interest.

In an analogous art, Poslinski teaches wherein the buffering of the portion of a program on said channel continues until a channel of higher interest is found, after which the buffering commences of a portion of a program on said channel of higher interest (§ 0047 and 0059-0060). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Horvitz and Marsh to include wherein the buffering of the portion of a program on said channel continues until a channel of higher interest is found, after which the buffering commences of a portion of a program on said channel of higher interest as taught by Poslinski for the benefit of allowing the user to utilize trick modes on multiple channels of interest.

14. Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz in view of Marsh as applied to claim 32 above, and further in view of Kaminski et al. "Kaminski" (USPN 7,512,315 B1).

As for Claim 39, Horvitz and Marsh fail to disclose wherein said program is buffered for a predetermined duration.

In an analogous art, Kaminski teaches wherein said program is buffered for a predetermined duration (i.e., the user can establish the size of the TSB) (Col. 11, line 53 to Col. 12, line 33). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Horvitz and Marsh to include wherein said program is buffered for a predetermined duration as taught by Kaminski for the benefit of allowing a viewer to manage one or more time-shift buffers by facilitating allowing the viewer to designate whether buffered video presentations corresponding to



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previously displayed television channels should be accessible after a change in television channels (Kaminski: Col. 1, line 48 to Col. 2, line 3).

As for Claim 40, Horvitz, Marsh, and Kaminski disclose, in particular Kaminski teaches wherein said program has a program duration (i.e., 1 hr) and said predetermined duration (i.e., 30 minutes) is shorter than said program duration (Col. 15, lines 41-54).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRIS PARRY whose telephone number is (571)272-8328. The examiner can normally be reached on Monday through Friday, 8:00 AM EST to 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN MILLER can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CHRIS PARRY  
Examiner  
Art Unit 2421

/CHRIS PARRY/  
Examiner, Art Unit 2421